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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,544	12/21/2001	Masashi Nakashita	2038-282	3584

7590 09/23/2003

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
3761	4

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/024,544	NAKASHITA, MASASHI
	Examiner Karin M. Reichle	Art Unit 3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 December 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 21 December 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u>	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Specification

Drawings

1. The drawings are objected to because the cross sectional lines A-A and B-B should be denoted by Roman or Arabic numerals. Note also page 5, lines 6 and 8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the progressively increasing density as claimed in claim 1 and the protuberant portions/wall portions as claimed in claims 2-3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Description

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112,

first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: abstract, lines 8 et seq and page 4, first full paragraph.

4. The disclosure is objected to because of the following informalities: With regard to page 3, last three lines and claim 1, last three lines, Applicant sets forth the second subpanel has a higher fiber assembly than that of the first subpanel. Should "assembly" be --density--? If not what is meant by higher "fiber assembly"? Greater thickness? More fibers? More fibers of a certain type? For purposes of examination, if the second panel of the prior art includes any property or structure with respect to the fibers which is higher than that of the fibers in the first subpanel it will be considered to meet the claim limitation. The paragraph bridging pages 7-8 is inconsistent with page 9, line 5-page 10, line 16 and claims 1-3, i.e. does the flat portion have a higher density than the other portions of the first subpanel or not? On page 10, line 22-page 12, line 10 Applicant discusses wt. % but does not say wt. % of what, i.e. the subpanel being discussed? The panel 4 which includes both panels? For purposes of examination, if the prior art includes such weight percents in the subpanels or the overall panel such will be considered to meet the claim limitation. Finally, on page 4, first full paragraph, page 7, line 10-page 8, line 16, page 18, the last paragraph, the Figures and claims 2-3, Applicant discusses wall portions 5c which are spaced towards the second subpanel but not as far as the protuberant portions 5b and serve to connect each pair of adjacent protuberant portions with each other. The only Figure which shows such portions 5c is Figure 2 and as best seen they don't connect each pair of adjacent portions 5b but only those in diagonal lines and they are also not shown with regard to their density nor spacing with respect to the second subpanel and the other portions of the first subpanel. Therefore it is unclear what the structure of the wall portions 5c is and how they relate

to the other structure of the invention. For purposes of examination, if the prior art includes at least one wall portion which connects at least one pair of adjacent protuberant portions such will be considered to meet the claim limitation. With regard to issues discussed *supra* a clear complete description should be set forth.

Appropriate correction is required.

Claim Objections

5. Claims 1-5 are objected to because of the following informalities: In claim 1, line 14 and claim 2, last line before “protuberant”, --first-- should be inserted, as best understood. In claim 2, line 3, before “protuberant”, --second-- should be inserted, as best understood. In claim 4, lines 4 and 6, after “wt%”, --of the sub-panel-- should be inserted, as best understood.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. Claims 2-3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, it is unclear how the protuberant portions relate to the pairs of adjacent protuberant portions, i.e. are the portions the same? Does each portion connect each pair or only one pair of adjacent portions? For example a wall portion(*Note following rejection*) connecting each pair of adjacent portions and which wall portions have the features of lines 2-6 could be set forth, as best understood. In regard to claim 3, a positive antecedent basis for “said wall

portions" should be set forth. In claim 5, the language of line 3, i.e. "contains" and line 4, i.e. "0...wt%", are inconsistent, i.e. does the second subpanel included superabsorbent or not?

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-2 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harwood '986 in view of Hsieh et al '155.

See Figures, col. 1, lines 50-62, col. 2, line 12-col. 3, line 54, col. 3, lines 68-74 and the discussion of the description objection *supra* with regard to claim examination, i.e. the topsheet is 11, the panel is at least 16 and 18, the first subpanel is 16 and the second subpanel is at least 18, the first subpanel flat portion is 16 between 32 on the topsheet facing side of 16, the embossed protuberances are 32, protuberances/wall portions as best understood are 40, the density of the first subpanel increases progressively as it gets nearer to the second subpanel, as best understood, see cited portions, and the second subpanel has more fibers and is thicker than the first subpanel, see layers 18, 20, 24, 25, 28, i.e. "higher fiber assembly" as best understood as discussed *supra* and includes no superabsorbent which as best understood meets the limitation of claim 5. The Harwood device includes all the claimed structure except for the backsheet and the compressive restoring elasticity as claimed in claim 1 and 30 wt% or less of cellulose as claimed in claim 4. However, see Hsieh et al, Figures, col. 3, lines 31-45, col. 3, line 61-col. 4, line 5,

col. 5, lines 8-14, col. 7, lines 16-20, i.e. sanitary napkin with two subpanels, one subpanel having embossments, which one subpanel can be cellulosics or thermoplastic synthetic resin fiber and be any thickness such that the panel is resistant to wet collapse when simultaneously subjected to compressive forces and fluid, i.e. has a “compressive restoring elasticity”, see also paragraph bridging pages 10-11 of the instant application, and sanitary napkins typically or commonly include backsheets. To make the first subpanel of any number of cellulosic sheets of Harwood a first subpanel of hydrophilic thermoplastic synthetic resin fiber and a thickness such that the panel is resistant to wet collapse instead would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Hsieh et al. With regard to claim 4, it is noted that the claim does not require any cellulose fiber, i.e. can be all synthetic as taught by Hsieh et al. Furthermore, to employ a backsheets as taught by Hsieh on the Harwood sanitary napkin would be obvious to one of ordinary skill in the art in view of the recognition that such is typically employed on a sanitary napkin and the desire of Harwood to use known components, see, e.g., col. 1, lines 6-8.

Allowable Subject Matter

9. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Burgeni reference also teaches a first subpanel but such does not have a flat portion.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Karin Reichle
Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR